



The end of the 'Jersey Way'?

By Deputy Sam Mézec

chairman@reformjersey.je

At the beginning of July, the Independent Jersey Care Inquiry published its report on its investigation into decades of appalling failures in child protection in Jersey.

The report issued a damning indictment of the "Jersey Way", the perception held by many Islanders, particularly the vulnerable and the disenfranchised, of a States of Jersey which is focused on defending the interests of the powerful, where controversies and failings are brushed under the carpet and where the 'Establishment' look out for one another at the expense of those the States should be caring for.

It criticised generations of politicians who had failed to show leadership on issues of child protection and who had instead focused purely on the interests of the finance industry, whilst letting Jersey's social legislation fall decades behind our neighbours.

The report makes for harrowing reading and highlights a plethora of failings which have seen countless children physically, mentally and sexually abused whilst in the Jersey care system.

The inquiry was set up by the States Assembly after years of campaigning by survivors of abuse, bloggers Rico Sorda and Voice for Children, former politicians, as well as sitting politician and Reform Jersey Deputy Montfort Tadier.

After two years of gathering evi-

dence, the Care Inquiry has drawn attention to several key examples of abuse which took place at the former children's home Haut de la Garenne, as well as the handling of the police investigation which took place in 2008 once the allegations of abuse were made public.

In particular, the Committee of Inquiry decided to address an issue which was out side of their terms of reference. Recommendation 7 in their report states that Jersey must look at its constitution and improve its government system to make sure it is fit for purpose and capable of operating in a way which will not leave any perception of conflicts of interest.

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The report states that further consideration must be given to the recommendations in the Clothier and Carswell

reports.

Both the Clothier and Carswell reports had recommended that the dual role of the Bailiff, where he sits as both

Chief Justice of the Royal Court and as President of the States Assembly, should be split and the States Assembly should elect its own President.

Reform Jersey's Deputy Tadier has therefore lodged a new proposition in the States Assembly asking members to agree that this recommendation should be implemented by the general election next year.

So far, the Chief Minister has refused to offer his support for this proposition, despite publicly stating on several occasions that he would support the implementation of all of the recommendations made in the Care Inquiry Report.

Gorst fails to deliver on low pay and poverty wages

Chief Minister Ian Gorst has pledged to bring forward the official States of Jersey target for the Minimum Wage to reach 45% of the mean wage from 2026 to 2020.

This followed the publication of a report commissioned by the States following a successful Reform Jersey propo-

sition to examine the potential impacts of a significant rise in the Minimum Wage.

The Oxera report examined the potential economic impact of raising the Minimum Wage to 45% of the mean wage (£7.88 per hour) or to 60% of the median wage (£8.40 per hour).

It concluded that either raise would lead to higher revenues for the States, although it would lead to a minor net loss of jobs, mainly focused in the hospitality and agriculture sectors.

Reform Jersey has pledged to amend the Chief Minister's proposals as soon as they have been published, to instead recommend the higher rate of 60% of the median wage, to allow States Members a choice to increase the Minimum Wage at a faster pace than Senator Gorst is prepared to go.

Reform Jersey chairman Deputy Sam Mézec said *"We are extremely disappointed that, once again, the government of Jersey is content to see our Minimum Wage rate fall well behind that of the UK and well below what is considered a living wage. Jersey's Minimum Wage is currently the lowest in the British Isles, including Guernsey, and is set to fall even further behind the UK under Ian Gorst's proposals."*

"We believe that proposals need to be considered to end poverty wages in Jersey and promote a real living wage which workers can live on without needing to claim benefits."

Former Chief Minister dominates States boards

Frank Walker, Chief Minister of Jersey from 2005 to 2008, has been appointed Chairman of Andium Homes just weeks after being appointed chairman of Digital Jersey.

Since leaving the States, Mr Walker has retained control and influence in many States bodies which were formally parts of States Departments. He has received remuneration for several of these positions.

Mr Walker had served on the board of the States incorporated Ports of Jersey and on the board of Andium Homes Ltd, the Island's state-owned social housing provider. He has announced



that since being appointed chairman of both Andium and Digital Jersey, he will relinquish his position with the Ports of Jersey.

Senator Bailhache defends Human Rights record of the UAE

Following questions in the States Assembly raised by Deputy Mézec during parliamentary question time on Tuesday 4th July, Senator Bailhache, Jersey's External Relations Minister, has launched a bizarre defence of the Human Rights record of the United Arab Emirates.

Senator Bailhache first faced a simple question from Deputy Mézec, asking for an update on which countries outside of the European Union which the government of Jersey would be seeking to engage with over the coming months.

In response, Senator Bailhache listed several countries and regions, singling out the United Arab Emirates as one country Jersey has ongoing dialogue with.

Deputy Mézec then proceeded to ask what difference in approach the Minister took when engaging with other countries, depending on whether they were democracies like the EU states, or whether they were "nasty, Human Rights-abusing dictatorships like the UAE?"

Senator Bailhache, clearly irritated at being asked the question at all, proceeded to state "I do not share the view

of the Deputy in his characterisation of the United Arab Emirates. Very far from it."

According to the organisation 'Human Rights Watch' - "The United Arab Emirates (UAE) often uses its affluence to mask the government's serious human rights problems. The government arbitrarily detains, and in some cases forcibly disappears, individuals who criticized the authorities, and its security forces face allegations of torturing detainees. A new anti-discrimination law further jeopardizes free speech and is discriminatory, as it excludes references to gender and sexuality. Authorities denied access to the country to activists

who criticized the UAE's mistreatment of migrant workers. Labor abuses persist, as migrant construction workers facing serious exploitation. Female domestic workers are excluded from regulations that apply to workers in other sectors."

The UAE does not hold free and fair elections, and is widely described as an absolute monarchy. Stoning and flogging remain as criminal punishments. Lashing is regularly inflicted for crimes such as drinking alcohol or having sex outside of marriage. Homosexuality is illegal and subject to capital punishment.

Senator Bailhache's comments have provoked bemusement from local political commentators.



Ethical Care Charter accepted

At its sitting on 19th July, the States Assembly unanimously voted to adopt the proposition of Deputy Geoff Southern to establish a consultation on the introduction of an Ethical Care Charter for providers of domestic care.

Following negotiations with the Health Minister, Reform Jersey was able to agree a way forward for a consultation to begin soon, with recommendations to be reported back to the States by the end of this year.

The consultation will examine proposals to improve terms and conditions for care workers, including ensuring workers are paid for travel time, zero-hours contracts are not used inappropriately, and ensuring that the carers are given shift patterns which enable them to spend an appropriate amount of time with their clients so that they do not have to rush their appointments and risk undermining the quality of care offered.

Tenants rights challenged

Deputy Tadier has challenged the Housing Minister to provide more rights for tenants, and to ban practices adopted by landlords who discriminate against tenants who have families by adopting a 'no kids' rule.

The Independent Jersey Care Inquiry mistakenly reported that the problem of landlords refusing to let properties to tenants with children was occurring as late as 1988, when in actual fact this practice continues to this day.

The Housing Minister has previously been challenged to follow the lead of the UK government by banning letting agent fees for tenants, however she has refused to take action on the basis that there is a long-running consultation going on, which she wishes to conclude before taking action.

Meanwhile, Reform Jersey representatives have continued to argue that action should be taken immediately when there are clearly instances of tenants being treated unfairly.

Why the Separation of Powers matters

Recommendation 7 of the Independent Jersey Care Inquiry stated that further consideration must be given to the Clothier and Carswell reviews, which had recommended that the Bailiff of Jersey should cease to act as both Chief Justice of the Royal Court and President of the States Assembly.

On 12th September, the States will debate a proposition brought by Deputy Tadier to end the dual role of the Bailiff, and allow the next States Assembly to elect its own presiding officer out of the membership of the States.

There will be many who will be frustrated at the prospect of the States once again debating this issue, taking up time that could be spent debating health, education and housing etc.

But this is an incredibly important principle, which means Jersey does not have the right to call ourselves a proper democracy until we have sorted it out.

Here's why - Sometimes governments mess things up. That much shouldn't be a surprise. But every government system needs to have checks and balances in place to either prevent mistakes being made in the first place, or to provide accountability when those mistakes are made, including redress for

the victims of those mistakes.

This means that the actions of every government must be able to be appealed to an independent tribunal.

If a government or parliament does something illegal, passes a law which doesn't make sense or contravenes the European Convention on Human Rights, the other branch of government, the judiciary, must be able to rule on the actions of the government in an impartial way.

That verdict must be able to be damning. In fact, sometimes it might be necessary for a court to issue a judgement on the actions of a government which are so damning of their incompetence and malice, that it may cause such embarrassment to the government that it causes them to fall.

The fact that this threat exists, makes governments work harder. They know that they can be held to account for their actions by a court of law which can cause them fatal embarrassment or even find them criminally liable. This forces governments to operate at a higher standard to make this less likely to happen.

But in Jersey, the person who presides over court also presides over the

States. The individual has a much closer relationship to those who make political decisions than is healthy and inevitably compromises the ability of the office holder to be impartial.

There is only one other jurisdiction in the whole world which has a Speaker who is also a judge - Guernsey.

Until a few years ago, Sark had the same system too. Their 'Seneschal' was head of the court and president of the 'Chief Pleas' (their parliament). But in 2010 they were forced to split the dual role after a decision in the UK Court of Appeal ruled that the ability of the Seneschal to recuse himself in court cases where he had presided over the law making process was not good enough to claim that they had an acceptable separation of powers.

This is not some slavish adherence to an obscure academic principle. It's about having an effective democracy.



Your Reform Jersey Deputies -

Deputy Sam Mézec - 07797 811130 / s.mezec@gov.je

Deputy Geoff Southern - 07387108127 / g.southern@gov.je

Deputy Montfort Tadier - 0738927 / m.tadier@gov.je

Join **Reform** Jersey

If you wish to join as a member of Reform Jersey, please either email our party secretary at secretary@reformjersey.je with your contact details, or fill in the form online at -

www.reformjersey.je/join-the-party

All members details are kept strictly confidential in line with Data Protection regulations.

Policies

- Reform our Income Tax code to reduce the tax burden on 'Middle Jersey', protect low earners and ask high earners to contribute more.
- Fully fund university tuition fees and introduce a student loan scheme for living expenses.
- Raise the minimum wage to £10 per hour by 2021.
- Introduce progressive rates of Social Security contributions for the self-employed.
- Raise maternity leave to 26 weeks.
- Reform the composition of the States Assembly to have one class of States Member, elected in equal sized constituencies where all voters have the same number of votes.